1945.

File No. O. Medical 45.

Legal Department.

A **BRANCH**

Subject:—

Opinions under the Bombay Medical Act of 1915.

(P 3/E)

File No. O. Medical /45

Gen. 194 e.

436-A

C O N T E N T S.

Legal Department File No. O. Medical/1945.

Sr. No.	Compilation No.	Subject	Pages.
		Opinions under the Bombay Medical Act, 1915.	
1.	O.No. 5527/26-7-45	Question whether sec. 5(1) of the Act would require amendment.	1 -2
2.	O.No.8468/13-11-45	Sec. 9 Question whether the action taken by the Medical Council in directing the removal of the name of Dr.L.P. Niwargi from the register of medical practitioners is legal.	3 - 4

K.S.R.
10/7.

R.I.No. 5175 dated 21-6-45.

This is a reference from G.D. under the Bombay Medical Act, 1912.

2. Section 5(1) of the Bombay Medical Act, 1915, runs as follows:-

"The Medical Council shall appoint a Registrar, and may from time to time grant leave to the Registrar and appoint a person to act in his place. Any order of the Medical Council appointing, granting leave to or dismissing a Registrar or appointing a person to act as Registrar shall be subject to the previous approval of the Provincial Govt." G.N.G.D.No.2099 dated 9th June 1946, amended (by way of adding) rule 100 of the Rules and Regulations of the Bombay Medical Council as follows:-

"The Executive Committee shall grant leave to the Registrar according to the Bombay Civil Services Rules." In accordance with this authorisation, it appears, that the Executive Committee of the Council granted earned leave to Mr. Ojha, Ex-Registrar of the Council from 2-11-44 to 16-12-44 . The President of the Medical Council feels that (p.1 ante) the authorisation to the Executive Committee would be inoperative unless the provision of previous approval of the Provincial Govt. in such cases is dispensed with. He has made the following suggestions:-

(i) Whether section 5(1) of the Bombay Medical Act, 1912, would require amendment to do away with the anamoly referred to above.

(ii) G.N., G.D.No. 2099 dated 9-6-44 authorises the Executive Committee to grant leave to the Registrar. Authorisation should be extended to

extended to the Committee to make appointment in such cases.

(iii) The Provl. Govt. should sanction Mr. Ojha's leave.

The papers have been referred to R.L.A. for opinion whether the course suggested in para (i) above, is legally feasible. The matter, it appears, lies with the Govt. If it is desired by Govt. that the provision in respect of the previous approval of the Provl. Govt. contemplated in section 5(1) of the Bombay Medical Act, be taken off, it can have no legal objection and G.D's view that section 5(1) of the Act, would require amendment to carry out the xobject expressed by the President of the Bombay Medical Council in his letter at p. 1 ante, is correct in that respect. Papers may be see and returned.

U.R. to G.D. No. 5527, dt. 26-7-1945.

C.G.R. 10-7

C 5

Office of the R.L.A.

It appears that the Medical Council removed the name of Dr. L.P. Niwargi from the Register of Medical Practitioners on the ground of his conviction under section 161 I.P.C. and consequent dismissal from the subordinate Medical Service. Since Dr. Niwargi was convicted of a non-cognisable offence the removal of his name from the Medical Register on that ground was not legal under section 9 of the Bombay Medical Act, 1912. The judgment of the Magistrate who convicted Dr. Niwargi is not in the papers submitted to the R.L.A. If the Medical Council considers after due enquiry that the circumstances under which illegl grqtificqtion wqs qccepted qmount to infqmous conduct in any professional respect it would be open to the Council to remove Dr. Niwargi's name from the Medical Register under section 9 of the Act.

o/c Id/- P.N.M. 12-11-45
Remembrancer of Legal Affairs.

U.O.r. to G.D., No. 8468 dated 13th November 1945.

C.G.R. 10-7

C 5